



Medicaid Estate Recovery Program

What is Estate Recovery?

Estate Recovery is a program in every state whereby Medicaid members with assets reimburse the taxpayers for long term care such as nursing home care or community care services provided through Medicaid. By accepting Medicaid benefits, a debt is created on part of the beneficiary that must be paid from the beneficiary's estate. Funds are recovered from the member's estate, only after death, for the cost of these services.

Why is Estate Recovery Program being implemented in Georgia?

The Medicaid program is a joint federal/state program. Federal law, enacted in 1993, requires states to develop and implement an estate recovery program. Georgia is one of the last two states to implement an estate recovery program.

Who is affected by Estate Recovery?

The Estate Recovery Program applies to people who receive any of the following services paid for by Medicaid:

- A person of any age living in a nursing home
- A person of any age living in a program outside their own family's home
- A person 55 years of age or older who has a person coming to their home to help them with health care needs. For example, a nurse that comes to your home to help you take your medication or change bandages or a person that comes to your home to help you with bathing or getting dressed in the morning.

When will Estate Recovery begin?

Medicaid members who qualify for Estate Recovery will receive notification by mail that the Estate Recovery Program will begin May 1, 2006. These members have until April 14, 2006 to "opt out" and not be subject to Estate Recovery. Individuals who apply for Medicaid and who may be subject to estate recovery will be advised of this program prior to determination as Medicaid eligible.

The Estate Recovery Program has been put in place to help the federal government get back some of the money that Medicaid has used to pay for your health care. In order to protect you and your family, the federal government has put the following rules in place before any money will be collected.

- The person on Medicaid must have passed away and the husband or wife must also be deceased.
- The person on Medicaid must not have any dependent children younger than 21 years of age.
- The person on Medicaid must not have any dependent children of any age with a disability.
- The person on Medicaid must have property or cash that is worth more than \$25,000.
- No money will be collected if the family of the person on Medicaid can show the collection will be a hardship.

Does recent action by the Georgia General Assembly regarding the asset threshold and retroactivity affect the program?

The Georgia General Assembly, in their 2006 session, passed legislation, Senate Bill 572, which increased the asset threshold from \$25,000 to the first \$100,000 of an estate. The legislation also removed the retroactive provision from the program. However, this legislation has not been ratified as law and therefore has no effect on the current Estate Recovery Program at this time. Should this change, affected Medicaid members will be notified.

What constitutes a hardship?

The federal government has developed a list of reasons that are considered a hardship. Some of these reasons include:

- Assets to be recovered is an income producing farm of one or more of the heirs and the annual gross income is limited to \$25,000 or less.
- Recovery of assets would result in the applicant becoming eligible for governmental assistance based on need and/or medical assistance programs.

What expenses must be reimbursed?

Expenses incurred by Medicaid on or after August 1, 2001, for any service provided in a long-term care facility or in the home, when provided as an alternative to institutionalization. These services include nursing facility services, personal care services, home and community-based services, hospital services and prescription drugs services.

What assets are considered subject to recovery?

Estate includes all real and personal property (i.e. homes, real estate, vehicles) held individually or jointly. Assets subject to recovery also includes property held with a life estate interest.

How will Medicaid go about recovering assets?

Estate recovery will occur when the State files a statement of claim against the estate of a deceased Medicaid member. No action to recover debt due by the deceased Medicaid member will be taken against the personal representative or heirs until 6 months after personal representative or heirs have been notified.

How do I apply for an undue hardship waiver?

Undue hardship waiver request may be made within 30 days of receiving the Medicaid's notice against the estate, or upon the sale, transfer or conveyance of the real property subject to a TEFRA lien. The Estate Recovery Unit will provide detailed instructions on how to file for undue hardship waiver in the Medicaid notice.

What is a lien?

A lien is a notice that is filed by the state of Georgia on the real property (homes, real estate) to secure recovery of medical claims paid on the member's behalf at the time the property is sold, transferred or conveyed. By filing a lien, the state of Georgia protects its future right of recovery.

How can I avoid the Estate Recovery Program?

If estate recovery applies to your circumstances, you have the choice to "opt out" of those affected Medicaid programs prior to April 14. Once you "opt out," Medicaid will no longer pay for your health care services in the long term care assistance or home and community based services class of eligibility. To "opt out" of the Medicaid program, the member must contact his/her local Department of Family and Children Services (DFCS) to have a DMA 327 form completed and forwarded to the Department of Community Health.

If you opt out of those affected Medicaid programs and then reapply and accept any Medicaid services provided by those affected Medicaid programs after this date, you will be subject to the full estate recovery back to August 1, 2001.

Can I transfer my assets to avoid the Estate Recovery Program?

If you choose to transfer your assets, you must contact your local DFCS case worker prior to the transfer to evaluate how the transfer may affect your Medicaid eligibility and if any penalties are applicable.

Does this program apply to me if I am not receiving home and community based waiver services or nursing home services?

No. However, if in the future you enroll in one of these services, yes it will apply to you.

How much money will I owe back to the Medicaid Program?

If you meet the criteria for estate recovery, your case will be evaluated to establish the exact amount owed to Medicaid at the time of the member's death. The amount requested will be limited to the amount that Medicaid has paid on qualified expenses and the available assets.

How do I find out how much has been paid for member's Medicaid services?

Members may request this information by fax at (678) 569-0066 or call the Estate Recovery Unit at (770) 916-0328.

Disclaimer: The information contained herein shall not constitute legal advice but should be used for informational purposes only.

For additional information, contact the Medicaid Estate Recovery Office at 770-916-0328 or visit our website at www.dch.georgia.gov. Members with questions on Medicaid Estate Recovery can submit questions to GAEstateRecovery@dch.ga.gov.